

### **REMARKS/ARGUMENTS**

The office action of April 23, 2004 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 3, 6, and 9 remain in this application. No claim was amended. However, the claims are listed with the changes from the previous amendment accepted to show that claims 3 and 9 are independent and claim 6 depends on claim 3. Claim 9 is not a dependent claim as suggested in the Office Action.

Claims 3, 6 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Abood et al. Abood describes antiviral agents and compounds, compositions, and methods for treating herpes-related disorders. The instant claims are directed to a selected compounds within the genus of Abood, but having properties not disclosed or recognized by Abood.

As set forth in the summary of the invention, it was discovered that specific compounds that fall within the generic scope of Formula II of WO 96/37485 (Abood) are very effective against HSV at lower concentrations than the compounds of the examples specifically disclosed in Abood. That is, the compounds of the present invention have specificity to HSV. Attention is drawn to the table on page 39.

Abood does not teach the specific compounds listed in the instant claims. Nor does Abood teach or suggest that certain compounds have specificity to HSV. Thus, one skilled in the art would not have selected particular substituents from those listed in Abood to arrive at the compounds of the instant claims. Abood does not teach or suggest the instant claims and withdrawal of the instant rejection is requested.

Appln. No.: 10/030,414  
Amendment dated May 6, 2004  
Reply to Office Action of April 23, 2004

### CONCLUSION

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

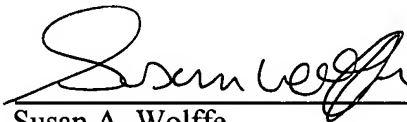
All rejections and objections having been addressed, applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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## Abstract of the Invention

2-Amino-benzoxazinones are identified for use in the treatment of Herpes Simplex Virus. A subject is treated for Herpes Simplex Virus by treating with an effective amount of 2-amino-benzoxazinones.